



# **THE ATTORNEY GENERAL OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN L. HILL  
ATTORNEY GENERAL**

**August 16, 1974**

**The Honorable W.M. Nelson, Superintendent  
Lumberton Independent School District  
P. O. Box 123  
Lumberton, Texas 77656**

**Open Records Decision  
No. 42**

**Mr. William H. Bingham  
Attorney for the Austin Independent School  
District  
McGinnis, Lochridge and Kilgore  
5th Floor, Texas State Bank Bldg.  
900 Congress Avenue  
Austin, Texas 78701**

**Re: Accessibility of  
student records to  
the public and to  
divorced parents**

**Gentlemen:**

Pursuant to Section 7(a) of the Open Records Act, Article 6252-17a, V. T. C. S., each of you has requested our decision concerning the accessibility of student records. We do not discuss whether they are available otherwise than under the Open Records Act.

Student records are excepted from disclosure under the Act by Sec. 3(a)(14) which excepts:

. . . student records at educational institutions funded wholly, or in part, by state revenue; but such records shall be made available upon request of educational institution personnel, the student involved, or that student's parent, legal guardian or spouse.

Superintendent Nelson asks whether the defendant in a criminal case may obtain the student records of the victim whom he is alleged to have shot. It is our decision that the records requested are clearly excepted and are not required to be disclosed under the Open Records Act.

Superintendent Nelson's second question and Mr. Bingham's inquiry are directed to the meaning of "parent" as used in Art. 6252-17a, V. T. C. S., Sec. 3(a)(14), above quoted. In the Lumberton request the student's parents are divorced and the father has been granted full custody, i. e., managing conservatorship, of the child. Sec. 14.02, Family Code, V. T. C. S. The mother has requested access under the Open Records Act to the student's records for use in a hearing to change custody.

In the Austin case it appears that the mother was granted full custody at the time of the divorce but that since then the father has obtained physical custody of the child and has been granted temporary conservatorship, Sec. 11.11, Family Code, V. T. C. S. The question posed under the Open Records Act is the father's right in these circumstances to access to his child's student records.

Section 3(a)(14) of the Open Records Act speaks of the "parent". "Parent" is defined in Sec. 11.01 of the Family Code, V. T. C. S., as:

[T]he mother, a man as to whom the child is legitimate, or an adoptive mother or father, but does not include a parent as to whom the parent-child relationship has been terminated.

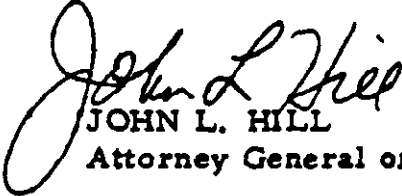
Termination of the parent-child relationship is the subject of Chapter 15 of the Code.

The mere fact that divorce has been decreed and that one parent has been appointed custodian under Sections 14.01 and 14.02(a) of the Family Code does not exclude the other from his or her status as a parent or from having some of the rights, privileges, duties, and powers of a full parent. See, Sections 14.02(a), 14.04, 11.11, and 12.04, Family Code, V. T. C. S. Therefore, absent a court order terminating the parent-child relationship, we must conclude that even divorced parents who are not managing conservators have the right of access to their child's student records.

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If the Austin and Lumberton School Districts are satisfied that the requesting parent's parental rights have not been terminated under Chapter 15 of the Family Code, then they may disclose the records here involved to the requesting parent, whether he or she has custody or has been appointed managing conservator.

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
C. J. CARL, Staff Legislative Assistant

  
DAVID M. KENDALL, Chairman  
Opinion Committee